

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF TENNESSEE**  
**AT KNOXVILLE**

PROGRESSIVE HAWAII )  
INSURANCE CORPORATION, )

Plaintiff, )

vs. )

) Docket No. 3:12-cv-00574

NAKIA DAVIS, ESTATE OF XAVIER )  
BINGHAM, )

RYAN WESTBROOK, ESTATE OF )  
JUSTIN WALKER, )

JAMES A. RUSSELL, ANGELIC )  
HODGE, GEICO INSURANCE CO. )

and )

ALLSTATE INSURANCE COMPANY, )

Defendants.

**PROGRESSIVE HAWAII INSURANCE CORPORATION'S**  
**MOTION FOR SUMMARY JUDGMENT**

Comes the plaintiff, Progressive Hawaii Insurance Corporation (hereinafter referred to as "Progressive"), by and through counsel, pursuant to Rule 56 of the *Federal Rules of Civil Procedure*, and moves this Honorable Court for entry of a Summary Judgment in its favor as to its Complaint for Declaratory Judgment filed herein, there being no genuine disputed issue of material fact that Progressive Hawaii Insurance Corporation owes no duty of defense or indemnify to Nakia Davis as the lessee of a 2012 red Nissan Maxima automobile or the driver of the 2012 red Nissan Maxima, in regard to a motor vehicle accident on May 12, 2012.

The motor vehicle accident is the subject of liability insurance coverage claims against a Tennessee Auto Insurance Policy issued by Progressive to defendant, Nakia Davis.

The motor vehicle accident is also the subject of a tort personal injury action filed in the Knox County Circuit Court under the style *James A. Russell and Angelic Hodge vs. Nakia Davis and Xavier Bingham*, Knox County Circuit Court, Docket No. 2-452-12.

Progressive is entitled to summary judgment because the 2012 red Nissan Maxima was not an “insured vehicle” under the terms and conditions of the Tennessee Auto Policy, and no one in the vehicle was a permissive driver as defined by the terms and conditions of the policy.

In support of its Motion, Progressive Hawaii Insurance Corporation attaches hereto and relies upon an Affidavit of Suzanne Hardy, Claims Adjuster for Progressive Hawaii Insurance Company, a Statement of Undisputed Material Facts, Brief in Support of Motion for Summary Judgment, and transcripts of the Examinations Under Oath of the Defendants Nakia B. Davis and the Xavier Bingham.

**WHEREFORE**, Progressive Hawaii Insurance Corporation moves this Honorable Court for entry of a Summary Judgment in its favor as to its Complaint for Declaratory Judgment.

Respectfully submitted,

**TRAMMELL, ADKINS & WARD, P.C.**

s/ Terrill L. Adkins  
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**CERTIFICATE OF SERVICE**

I hereby certify that on **June 4, 2013** a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

**TRAMMELL, ADKINS & WARD, P.C.**

s/ Terrill L. Adkins  
Terrill L. Adkins